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Federal Communications Commission  
Office of the Secretary

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Donna R. Searcy, Secretary  
Federal Communications Commission  
1919 M Street, N.W. - Room 222  
Washington, D.C. 20554

VIDEO SERVICES

Re: BPCT-831202KF -- Application of Shurberg  
Broadcasting of Hartford

Dear Ms. Searcy:

Submitted herewith in triplicate on behalf of Shurberg Broadcasting of Hartford ("SBH") is an amendment to its above-referenced application for a new UHF television station to operate on Channel 18 in Hartford, Connecticut. SBH's application was listed in Broadcast Application, Report No. 14926, Mimeo No. 11679, released February 8, 1991, as having been accepted for filing. That public notice established March 18, 1991 as the last date on which amendments could be filed as a matter of right. See Section 73.3522(a)(2) of the Commission's Rules. Accordingly, the instant amendment is being filed as a matter of right.

Please call me if you have any questions about this matter.

Sincerely,

  
Harry F. Cole

Counsel for Shurberg Broadcasting  
of Hartford

cc (w/enc.): Roy J. Stewart, Chief (By Hand)  
Mass Media Bureau  
Barbara A. Kreisman, Chief (By Hand)  
Video Services Division  
Clay Pendarvis, Chief (By Hand)  
Television Branch

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AMENDMENT

Federal Communications Commission  
Office of the Secretary

The application (File No. BPCT-831202KF) of Shurberg Broadcasting of Hartford ("SBH") is hereby amended to include the following information.

1. Financial Certification. SBH hereby amends its application to respond in the affirmative to both questions in Section III of its application. Specifically, SBH certifies that:

1. sufficient net liquid assets are available from committed sources to construct and operate the requested facilities for three months without revenue; and
2. (a) SBH has reasonable assurance of a present firm intention for each agreement to furnish capital or purchase capital stock by parties to the application, each loan by banks, financial institutions or others, and each purchase of equipment on credit; (b) it can and will meet all contractual requirements as to collateral, guarantees, and capital investment; and (c) it has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions and equipment manufacturers) have sufficient net liquid assets to meet these commitments.

SBH's application was filed on December 2, 1983. SBH's initial efforts to secure immediate comparative consideration were rejected by the Commission in 1984, forcing SBH to seek review in the United States Court of Appeals for the District of Columbia Circuit. After almost five years of delay -- delay which occurred despite SBH's active litigation of the case throughout those five years -- that Court concluded that SBH had been wrongfully denied the opportunity to compete for the authorization. Shurberg Broadcasting of Hartford, Inc. v. FCC, 876 F.2d 902 (D.C. Cir. 1989). However, that decision was

appealed to the United States Supreme Court which, in June, 1990, reversed, affirming the Commission's original 1984 decision.

Metro Broadcasting, Inc., 110 S.Ct. 2997 (1990).

When SBH first prepared and submitted its application, SBH recognized that it was likely, if not certain, to face a prolonged legal battle before its application would be accepted for filing. The validity of that view became apparent as SBH's appeal (and the subsequent Supreme Court case) continued for years without resolution. Because of the likelihood of years-long delay, SBH did not certify with respect to its financial qualifications in its application as originally filed. Nevertheless, SBH had made appropriate provision for the costs of prosecuting its application and related litigation, and it understood that, when its application was finally accepted for filing, it would have to comply with the Commission's requirements concerning certification of financial qualifications.

In the summer of 1989, shortly after the Court of Appeals decision had provided a clear indication that acceptance of SBH's application was imminent, Alan Shurberg, SBH's sole principal, finalized extensive estimates of construction and operation costs with respect to SBH's proposed station. Mr. Shurberg then contacted an official of a well-established bank, provided appropriate background documentation concerning himself, SBH, SBH's proposal and his cost estimates, and obtained from that bank, in August, 1989, a commitment of funding easily

sufficient to meet SBH's anticipated construction and initial (i.e., three-month) operating costs.

SBH did not amend its application at that time because its application had still not, as of that date, been accepted for filing. SBH understood that well-established Commission precedent permitted amendments with respect to an applicant's financial qualifications as a matter of right up to the "B" cut-off date designated at the time the application is accepted for filing. Thus, SBH believed that a financial amendment at that time would have been premature. (This is distinct from an amendment concerning SBH's technical proposal. SBH did file such an amendment in July, 1989. It did so in response to a clear instruction from the Commission that all applicants in SBH's particular posture -- i.e., applicants which (a) were challenging a renewal applicant and (b) had not yet been designated for hearing -- amend their applications as necessary to assure compliance with recently-adopted policies. See Formulation of Policies and Rules Relating to Broadcast Renewal Applicants, Competing Applicants, and Other Participants to the Comparative Renewal Process and to the Prevention of Abuses of the Renewal Process, 4 FCC Rcd 4780, 66 R.R.2d 708 (1989).)

SBH notes that the Commission's application forms have been revised since SBH's application was filed. The revisions include changes in the information required to be submitted in connection with the applicant's financial certification. According to the Commission, however,

Applications already on file as of the effective date [i.e., June 28, 1989], however, will not be required to be amended to include the additional information.

In the Matter of Revision of Application for Construction Permit for Commercial Broadcast Station, 4 FCC Rcd 3853, 3861, 66 R.R.2d 519, ¶61 (1989) (emphasis added), recon. denied, 5 FCC Rcd 7267, 68 R.R.2d 764 (1990). These decisions demonstrate that the information requested by the revised forms is not required to be submitted by applicants such as SBH which had filed their applications prior to June, 1989. In view of the Commission's clear admonition on this point, SBH is hereby merely amending its "old" form to reflect affirmative answers with respect to SBH's financial qualifications.

Notwithstanding all of the foregoing, if the Commission should conclude that applicants such as SBH should submit, in connection with their certification of financial qualifications, all information currently required by the "new", revised application form, SBH is ready, willing and able to submit such information upon request of the Commission.

(Of course, SBH would expect that any such request directed to SBH would be similarly directed to all other applicants seeking authority to operate on Channel 18, Hartford, including, but not limited to, the incumbent licensee, Astroline Communications Company Limited Partnership Debtor-In-Possession, which has been the subject of a bankruptcy proceeding for more than two years. SBH's willingness to comply with any Commission request for further financial information is not, however,

subject to any condition that similar requests be made of all such other applicants.)

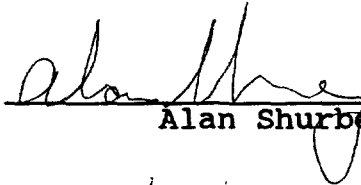
2. Residence Address. SBH's application is further amended to reflect that the official mailing address for SBH, and the residence address of SBH's sole principal, Alan Shurberg, have been changed. Mr. Shurberg's new address, which is SBH's official mailing address, is:

Alan Shurberg  
Shurberg Broadcasting of Hartford  
967 Asylum Avenue  
Hartford, Connecticut 06105.

It should be noted that, while Mr. Shurberg maintains his residence in Hartford, he anticipates that his continued, active involvement in the prosecution of SBH's application may occasionally require him to spend significant periods of time in Washington, D.C. pending final action on that application.

SHURBERG BROADCASTING OF HARTFORD

By:

  
Alan Shurberg

Date:

3/18/91